

By:

Lucio

S.B. No. 535

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain counties to regulate land development; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 7, Local Government Code, is amended by adding Chapter 236 to read as follows:

CHAPTER 236. REGULATION OF LAND DEVELOPMENT IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 236.001. DEFINITIONS. In this chapter:

(1) "International Residential Code" means the International Residential Code for One-Family and Two-Family Dwellings promulgated by the International Code Council.

(2) "Residential" means having the character of a:

(A) detached one-family or two-family dwelling;
or

(B) multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a:

(i) facility used for the accommodation of transient guests; or

(ii) structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure. 1/2

1 Sec. 236.002. APPLICABILITY. This chapter applies only to
2 a county that includes territory located within 50 miles of an
3 international border.

4 [Sections 236.003-236.050 reserved for expansion]

5 SUBCHAPTER B. } REGULATORY AUTHORITY

6 Sec. 236.051. REGULATORY AUTHORITY. (a) The commissioners
7 court of the county by order may regulate residential land
8 development in the unincorporated area of the county to prevent the
9 proliferation of colonias by:

10 (1) adopting regulations relating to:

11 (A) maximum densities, including the size of
12 lots;

13 (B) the height, number of stories, size, or
14 number of buildings or other structures that may be located on a lot
15 or tract; and

16 (C) the location of buildings and other
17 structures on a lot or tract; and

18 (2) adopting building codes to promote safe and
19 uniform building, plumbing, and electrical standards.

20 (b) If a tract of land is appraised as agricultural or
21 open-space land by the appraisal district, the commissioners court
22 may not regulate land development on that tract under the authority
23 granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

24 (c) The authority granted under this section does not
25 authorize the commissioners court to adopt an order regulating
26 commercial property that is uninhabitable.

27 Sec. 236.052. RESIDENTIAL BUILDING CODE. (a) If the ^{2/3}

1 commissioners court adopts a residential building code, the
2 commissioners court must:

3 (1) adopt the International Residential Code as it
4 existed on May 1, 2003; and

5 (2) apply the code to all construction, alteration,
6 remodeling, enlargement, and repair of residential structures in
7 the unincorporated area of the county.

8 (b) The commissioners court shall establish procedures to
9 administer and enforce the International Residential Code if it is
10 adopted.

11 (c) The commissioners court shall review and consider and
12 may adopt amendments made by the International Code Council to the
13 International Residential Code after May 1, 2003.

14 Sec. 236.053. INSPECTIONS OF RESIDENTIAL STRUCTURES. An
15 inspection of a residential structure in the unincorporated area of
16 the county must be conducted by a person who:

17 (1) is an inspector certified by the International
18 Code Council, the Building Officials and Code Administrators
19 International, Inc., the International Conference of Building
20 Officials, or the Southern Building Code Congress International,
21 Inc., or is a licensed professional engineer; and

22 (2) has any other qualifications established by the
23 county.

24 Sec. 236.054. BUILDING PERMITS. (a) The county shall issue
25 a building permit if the person submitting the application for the
26 permit:

27 (1) files information relating to the location of the ³/₄

1 residence;

2 (2) files the building plans for the residence; and

3 (3) complies with the applicable regulations relating
4 to the issuance of the permit.

5 (b) The county may charge a reasonable building permit fee.

6 (c) The county shall deposit a fee collected under this
7 section in an account in the general fund of the county dedicated to
8 the building permit program. The funds in the account may be used
9 only for the purpose of administering the building permit program.

10 Sec. 236.055. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
11 ORDER. If an order adopted under this subchapter conflicts with an
12 ordinance of a municipality, the municipal ordinance prevails
13 within the municipality's jurisdiction to the extent of the
14 conflict.

15 Sec. 236.056. EXISTING COUNTY AUTHORITY UNAFFECTED. The
16 authority granted by this subchapter does not affect the authority
17 of the commissioners court to adopt an order or ordinance under
18 other law.

19 [Sections 236.057-236.100 reserved for expansion]

20 SUBCHAPTER C.] ENFORCEMENT

21 Sec. 236.101. INJUNCTION. The county, in a suit brought by
22 the county attorney or other prosecuting attorney representing the
23 county in the district court, is entitled to appropriate injunctive
24 relief to prevent the violation or threatened violation of an order
25 adopted under this chapter from continuing or occurring.

26 Sec. 236.102. PENALTY; EXCEPTION. (a) A person commits an
27 offense if the person violates a restriction or prohibition imposed

1 by an order adopted under this chapter. An offense under this
2 section is a Class C misdemeanor.

3 (b) If the Texas Department of Housing and Community Affairs
4 classifies a household as a low-income household, a penalty may not
5 be assessed under this section against the owner-occupant of the
6 residential dwelling for a building standards or building code
7 violation relating to the dwelling unless the county makes
8 available to the owner-occupant housing rehabilitation assistance
9 in an amount sufficient to cure the violation. The assistance
10 provided must be a grant or loan and must be on payment terms that do
11 not cause the housing expenses of the owner-occupant to exceed 30
12 percent of the owner-occupant's net income.

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2003.

1-1 By: Lucio S.B. No. 535
1-2 (In the Senate - Filed February 18, 2003; February 24, 2003,
1-3 read first time and referred to Committee on International
1-4 Relations and Trade; March 10, 2003, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 6, Nays
1-6 0; March 10, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 535 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to authorizing certain counties to regulate land
1-11 development; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 232, Local Government Code, is amended
1-14 by adding Subchapter F to read as follows:

1-15 SUBCHAPTER F. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES

1-16 Sec. 232.151. APPLICABILITY. This subchapter applies only
1-17 to a county that includes territory located within 50 miles of an
1-18 international border.

1-19 Sec. 232.152. REGULATORY AUTHORITY. (a) The commissioners
1-20 court of the county by order may regulate residential land
1-21 development in the unincorporated area of the county to prevent the
1-22 proliferation of colonias by:

1-23 (1) adopting regulations relating to:

1-24 (A) maximum densities, including the size of
1-25 lots;

1-26 (B) the height, number of stories, size, or
1-27 number of buildings or other structures that may be located on a lot
1-28 or tract; and

1-29 (C) the location of buildings and other
1-30 structures on a lot or tract; and

1-31 (2) adopting building codes to promote safe and
1-32 uniform building, plumbing, and electrical standards.

1-33 (b) If a tract of land is appraised as agricultural or
1-34 open-space land by the appraisal district, the commissioners court
1-35 may not regulate land development on that tract under the authority
1-36 granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

1-37 (c) The authority granted under this section does not
1-38 authorize the commissioners court to adopt an order regulating
1-39 commercial property that is uninhabitable.

1-40 Sec. 232.153. BUILDING PERMITS. (a) The county shall
1-41 issue a building permit if the person submitting the application
1-42 for the permit:

1-43 (1) files information relating to the location of the
1-44 residence;

1-45 (2) files the building plans for the residence; and

1-46 (3) complies with the applicable regulations relating
1-47 to the issuance of the permit.

1-48 (b) The county may charge a reasonable building permit fee.

1-49 (c) The county shall deposit a fee collected under this
1-50 section in an account in the general fund of the county dedicated to
1-51 the building permit program. The funds in the account may be used
1-52 only for the purpose of administering the building permit program.

1-53 Sec. 232.154. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
1-54 ORDER. If an order adopted under this subchapter conflicts with an
1-55 ordinance of a municipality, the municipal ordinance prevails
1-56 within the municipality's jurisdiction to the extent of the
1-57 conflict.

1-58 Sec. 232.155. EXISTING COUNTY AUTHORITY UNAFFECTED. The
1-59 authority granted by this subchapter does not affect the authority
1-60 of the commissioners court to adopt an order or ordinance under
1-61 other law.

1-62 Sec. 232.156. INJUNCTION. The county, in a suit brought by
1-63 the county attorney or other prosecuting attorney representing the

county in the district court, is entitled to appropriate injunctive relief to prevent the violation or threatened violation of an order adopted under this subchapter from continuing or occurring.

Sec. 232.157. PENALTY; EXCEPTION. (a) A person commits an offense if the person violates a restriction or prohibition imposed by an order adopted under this subchapter. An offense under this section is a Class C misdemeanor.

(b) If the Texas Department of Housing and Community Affairs classifies a household as a low-income household, a penalty may not be assessed under this section against the owner-occupant of the residential dwelling for a building standards or building code violation relating to the dwelling unless the county makes available to the owner-occupant housing rehabilitation assistance in an amount sufficient to cure the violation. The assistance provided must be a grant or loan and must be on payment terms that do not cause the housing expenses of the owner-occupant to exceed 30 percent of the owner-occupant's net income.

SECTION 2. The heading to Chapter 232, Local Government Code, is amended to read as follows:

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS AND PROPERTY
DEVELOPMENT

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 535
By Lucio
(Author/Senate Sponsor)
March 10, 2003
(date)

We, your Committee on INTERNATIONAL RELATIONS AND TRADE, to which was referred the attached measure,
have on March 5, 2003, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Eddie Lucio, Chair	<input checked="" type="checkbox"/>			
Senator Eliot Shapleigh, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Teel Bivins			<input checked="" type="checkbox"/>	
Senator John Carona	<input checked="" type="checkbox"/>			
Senator Craig Estes	<input checked="" type="checkbox"/>			
Senator Jane Nelson	<input checked="" type="checkbox"/>			
Senator Judith Zaffirini	<input checked="" type="checkbox"/>			
TOTAL VOTES	6		1	

COMMITTEE ACTION

- ☒ S260 Considered in public hearing
☒ S270 Testimony taken

Laura Garcia
COMMITTEE CLERK

Eddie Lucio, Jr.
CHAIR

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 535

SENATE COMMITTEE REPORT

International Relations and Trade

March 5, 2003 - 8:30AM

FOR: Hinojosa, Gilberto County Judge (Cameron County), Brownsville, TX
Rodriguez, Jose El Paso County Attorney (County of El Paso), El Paso, TX

Registering, but not testifying:

FOR: Henneberger, John Co-director (Texas Low Income Housing Information Service),
Austin, TX
Howe, Billy State Legislative Director (Texas Farm Bureau), Austin, TX
Igo, Shanna Director of Legislative Services (Texas Municipal League), Austin, TX
Kastrin, Deborah (County of El Paso), El Paso, TX
Lee, Donald Executive Director (Texas Conference of Urban Counties), Austin, TX

ON: Cabello Jr., Homero Director, Office of Colonia Initiatives (Texas Department of
Housing and Community Affairs), Austin, TX

BILL ANALYSIS

Senate Research Center
78R8007 MXM-D

C.S.S.B. 535
By: Lucio
International Relations and Trade
3-7-2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the Texas border is plagued by a rash of unincorporated subdivisions that lack basic services, such as water, wastewater systems, electricity, and paved roads. These areas are commonly known as "colonias." C.S.S.B. 535 provides border counties the necessary tools to prevent the proliferation of colonias.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 232, Local Government Code, by adding Subchapter F, as follows:

SUBCHAPTER F. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES

Sec. 232.151. **APPLICABILITY.** Provides that this chapter only applies to a county that includes territory within 50 miles of an international border.

Sec. 232.152. **REGULATORY AUTHORITY.** (a) Authorizes the commissioners court of the county by order to regulate, by certain measures, residential land development in the unincorporated area of the county to prevent the proliferation of colonias.

(b) Prohibits the commissioners court from regulating land development on a tract of land appraised as agricultural or open-space.

(c) Provides that authority granted under this section does not authorize the commissioners court to adopt an order regulating commercial property that is uninhabitable.

Sec. 232.153. **BUILDING PERMITS.** (a) Requires the county to issue a building permit to an applicant who provides certain information and complies with applicable regulations.

(b) Authorizes the county to charge a reasonable building permit fee.

(c) Requires the county to deposit a fee collected under this section in an account in the general fund of the county dedicated to the building permit program. Authorizes the funds to be used only for administering the building permit program.

Sec. 232.154. **MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER.** Provides that in a conflict between an order under this subchapter and a municipal ordinance, the municipal ordinance prevails within the municipality's jurisdiction.

Sec. 232.155. **EXISTING COUNTY AUTHORITY UNAFFECTED.** Provides that

authority granted under this subchapter does not affect the commissioners court's authority under other law.

Sec. 232.156 INJUNCTION. Provides that in a suit in district court the county is entitled to appropriate injunctive relief to prevent the violation or threatened violation of an order adopted under this subchapter from continuing or occurring.

Sec. 232.157. PENALTY; EXCEPTION. (a) Defines an offense under this subchapter and provides that an offense is a Class C misdemeanor.

(b) Prohibits assessment of a building standards or code violation penalty against an owner-occupant classified as low-income by the Texas Department of Housing and Community Affairs, unless the county provides assistance sufficient to cure the violation. Requires assistance to be a grant or loan on payment terms that do not cause housing expenses to exceed 30 percent of the owner-occupant's net income.

SECTION 2. Amends the heading to Chapter 232, Local Government Code, to read as follows:

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS AND PROPERTY
DEVELOPMENT

SECTION 3. Effective date: upon passage or September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

Differs from the original in SECTION 1 by amending Chapter 232 of the Local Government Code, rather than adding Chapter 236 to that code, renumbering sections accordingly, deleting the sections reserved for expansion, and deleting the sections regarding definitions, the residential building code, and inspections of residential structures.

Differs from the original in SECTION 2 by changing the heading of Chapter 232, Local Government Code, rather than setting the effective date.

Differs from the original by adding SECTION 3 to set the effective date.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 6, 2003

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations and Trade

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB535 by Lucio (Relating to authorizing certain counties to regulate land development; providing a penalty.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 232, Local Government Code, to authorize counties located within 50 miles of an international border to regulate land development in the unincorporated area of the county and would provide a penalty for violations of the regulations. The commissioners court in the authorized counties would be allowed to adopt regulations relating to lots, buildings, structures, and location, as well as adopt building codes except for land appraised as agricultural or that is commercial.

The bill also outlines requirements that must be met by the person submitting an application for a permit before the commissioners court issues a building permit. The county would be allowed to collect a reasonable building permit fee to be deposited into the county's general fund and used only for administering the building permit program.

A penalty for violating the building codes would be a Class C misdemeanor, although a penalty could not be assessed if the owner-occupant is in a dwelling classified by the Texas Department of Housing and Community Affairs as a low-income household, unless the county provides a grant or loan to the owner-occupant to cure the violation. Repayment terms of the grant or loan could not cause the housing expenses to exceed 30 percent of the owner-occupant's net income.

The bill would take effect immediately if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2003.

Local Government Impact

Counties that would choose to regulate residential land development in the unincorporated area of the county and adopt a residential building code would incur expenses associated with issuing permits; however, the counties would be allowed to collect a fee to offset the costs of administering the permit program. If a county were required to provide a grant or a loan to an eligible owner-occupant who was in violation of the codes, the county would incur those costs until repayment by the owner-occupant is complete. If repayment is not forthcoming, the county would experience a revenue loss.

The fiscal impact would vary by county that regulates residential land development and that adopts a residential building code and would result in a significant loss only if the county makes loans or grants that are not repaid; otherwise, it is anticipated that the fiscal impact of the provisions of the bill would be insignificant.

Source Agencies:

LBB Staff: JK, EB, DLBa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 3, 2003

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations and Trade

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB535 by Lucio (Relating to authorizing certain counties to regulate land development; providing a penalty.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Title 7, Local Government Code, to authorize counties located within 50 miles of an international border to regulate land development in the unincorporated area of the county and would provide a penalty for violations of the regulations. The commissioners court in the authorized counties would be allowed to adopt regulations relating to lots, buildings, structures, and location, as well as adopt building codes. If the commissioners court were to adopt a residential building code, it must also adopt the International Residential Code as it existed on May 1, 2003 and establish procedures for administering and enforcing the code. Provisions of the bill would require that inspections be conducted by an inspector certified by one of four building code groups listed in the bill or be conducted by a licensed professional engineer.

The bill also outlines requirements that must be met by the person submitting an application for a permit before the commissioners court issues a building permit. The county would be allowed to collect a reasonable building permit fee to be deposited into the county's general fund and used only for administering the building permit program.

A penalty for violating the building codes would be a Class C misdemeanor, although a penalty could not be assessed if the owner-occupant is in a dwelling classified by the Texas Department of Housing and Community Affairs as a low-income household, unless the county provides a grant or loan to the owner-occupant to cure the violation. Repayment terms of the grant or loan could not cause the housing expenses to exceed 30 percent of the owner-occupant's net income.

The bill would take effect immediately if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2003.

Local Government Impact

Counties that would choose to regulate residential land development in the unincorporated area of the county and adopt a residential building code would incur expenses associated with issuing permits and enforcing code compliance; however, the counties would be allowed to collect a fee to offset the costs of administering the permit program. Other costs would be to employ or contract with a certified inspector or a certified engineer to conduct inspections. If a county were required to provide a grant or a loan to an eligible owner-occupant who was in violation of the codes, the county would incur those costs until repayment by the owner-occupant is complete. If repayment is not forthcoming, the county would experience a revenue loss.

The negative fiscal impact would vary by county that regulates residential land development and that adopts a residential building code and would be significant only if the county makes loans or grants that are not repaid; otherwise, it is anticipated that the fiscal impact would be insignificant.

Source Agencies:

LBB Staff: JK, EB, DLBa

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that CSSB 535, by Lucio,
(Bill No.) (Author/Sponsor)

was heard by the Committee on International Relations and Trade on March 5, 2003,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.


(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

ADOPTED

MAR 20 2003

Atty Gen
Secretary of the Senate

By: *Lucio*, Madla

S.B. No. 535

Substitute the following for S.B. No. 535:

By: *Lucio*

C.S. S.B. No. 535

A BILL TO BE ENTITLED

AN ACT

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 232, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES

Sec. 232.151. APPLICABILITY. This subchapter applies only to a county that includes territory located within 50 miles of an international border.

Sec. 232.152. REGULATORY AUTHORITY. (a) The commissioners court of the county by order may regulate residential land development in the unincorporated area of the county to prevent the proliferation of colonias by:

(1) adopting regulations relating to:

(A) maximum densities, including the size of lots;

(B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract; and

(C) the location of buildings and other structures on a lot or tract; and

(2) adopting building codes to promote safe and uniform building, plumbing, and electrical standards. 11/2

1 (b) If a tract of land is appraised as agricultural or
2 open-space land by the appraisal district, the commissioners court
3 may not regulate land development on that tract under the authority
4 granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

5 (c) The authority granted under this section does not
6 authorize the commissioners court to adopt an order regulating
7 commercial property that is uninhabitable.

8 Sec. 232.153. BUILDING PERMITS. (a) The county shall issue
9 a building permit if the person submitting the application for the
10 permit:

11 (1) files information relating to the location of the
12 residence;

13 (2) files the building plans for the residence; and

14 (3) complies with the applicable regulations relating
15 to the issuance of the permit.

16 (b) The county may charge a reasonable building permit fee.

17 (c) The county shall deposit a fee collected under this
18 section in an account in the general fund of the county dedicated to
19 the building permit program. The funds in the account may be used
20 only for the purpose of administering the building permit program.

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22 ORDER. If an order adopted under this subchapter conflicts with an
23 ordinance of a municipality, the municipal ordinance prevails
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27 authority granted by this subchapter does not affect the authority 213

1 of the commissioners court to adopt an order or ordinance under
2 other law.

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4 the county attorney or other prosecuting attorney representing the
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13 classifies a household as a low-income household, a penalty may not
14 be assessed under this section against the owner-occupant of the
15 residential dwelling for a building standards or building code
16 violation relating to the dwelling unless the county makes
17 available to the owner-occupant housing rehabilitation assistance
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25 DEVELOPMENT

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as /3/4

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2003.

Engrossed March 20, 2003
Mardi Alexander
Engrossing Clerk

I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

By: Lucio, Madla
(Chavez)

S.B. No. 535

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2 other law.

3 Sec. 232.156. INJUNCTION. The county, in a suit brought by
4 the county attorney or other prosecuting attorney representing the
5 county in the district court, is entitled to appropriate injunctive
6 relief to prevent the violation or threatened violation of an order
7 adopted under this subchapter from continuing or occurring.

8 Sec. 232.157. PENALTY; EXCEPTION. (a) A person commits an
9 offense if the person violates a restriction or prohibition imposed
10 by an order adopted under this subchapter. An offense under this
11 section is a Class C misdemeanor.

12 (b) If the Texas Department of Housing and Community Affairs
13 classifies a household as a low-income household, a penalty may not
14 be assessed under this section against the owner-occupant of the
15 residential dwelling for a building standards or building code
16 violation relating to the dwelling unless the county makes
17 available to the owner-occupant housing rehabilitation assistance
18 in an amount sufficient to cure the violation. The assistance
19 provided must be a grant or loan and must be on payment terms that do
20 not cause the housing expenses of the owner-occupant to exceed 30
21 percent of the owner-occupant's net income.

22 SECTION 2. The heading to Chapter 232, Local Government
23 Code, is amended to read as follows:

24 CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS AND PROPERTY
25 DEVELOPMENT

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

S.B. No. 535

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2003.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 6, 2003

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations and Trade

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB535 by Lucio (Relating to authorizing certain counties to regulate land development; providing a penalty.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 232, Local Government Code, to authorize counties located within 50 miles of an international border to regulate land development in the unincorporated area of the county and would provide a penalty for violations of the regulations. The commissioners court in the authorized counties would be allowed to adopt regulations relating to lots, buildings, structures, and location, as well as adopt building codes except for land appraised as agricultural or that is commercial.

The bill also outlines requirements that must be met by the person submitting an application for a permit before the commissioners court issues a building permit. The county would be allowed to collect a reasonable building permit fee to be deposited into the county's general fund and used only for administering the building permit program.

A penalty for violating the building codes would be a Class C misdemeanor, although a penalty could not be assessed if the owner-occupant is in a dwelling classified by the Texas Department of Housing and Community Affairs as a low-income household, unless the county provides a grant or loan to the owner-occupant to cure the violation. Repayment terms of the grant or loan could not cause the housing expenses to exceed 30 percent of the owner-occupant's net income.

The bill would take effect immediately if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2003.

Local Government Impact

Counties that would choose to regulate residential land development in the unincorporated area of the county and adopt a residential building code would incur expenses associated with issuing permits; however, the counties would be allowed to collect a fee to offset the costs of administering the permit program. If a county were required to provide a grant or a loan to an eligible owner-occupant who was in violation of the codes, the county would incur those costs until repayment by the owner-occupant is complete. If repayment is not forthcoming, the county would experience a revenue loss.

The fiscal impact would vary by county that regulates residential land development and that adopts a residential building code and would result in a significant loss only if the county makes loans or grants that are not repaid; otherwise, it is anticipated that the fiscal impact of the provisions of the bill would be insignificant.

Source Agencies:

LBB Staff: JK, EB, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 3, 2003

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations and Trade

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB535 by Lucio (Relating to authorizing certain counties to regulate land development; providing a penalty.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Title 7, Local Government Code, to authorize counties located within 50 miles of an international border to regulate land development in the unincorporated area of the county and would provide a penalty for violations of the regulations. The commissioners court in the authorized counties would be allowed to adopt regulations relating to lots, buildings, structures, and location, as well as adopt building codes. If the commissioners court were to adopt a residential building code, it must also adopt the International Residential Code as it existed on May 1, 2003 and establish procedures for administering and enforcing the code. Provisions of the bill would require that inspections be conducted by an inspector certified by one of four building code groups listed in the bill or be conducted by a licensed professional engineer.

The bill also outlines requirements that must be met by the person submitting an application for a permit before the commissioners court issues a building permit. The county would be allowed to collect a reasonable building permit fee to be deposited into the county's general fund and used only for administering the building permit program.

A penalty for violating the building codes would be a Class C misdemeanor, although a penalty could not be assessed if the owner-occupant is in a dwelling classified by the Texas Department of Housing and Community Affairs as a low-income household, unless the county provides a grant or loan to the owner-occupant to cure the violation. Repayment terms of the grant or loan could not cause the housing expenses to exceed 30 percent of the owner-occupant's net income.

The bill would take effect immediately if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2003.

Local Government Impact

Counties that would choose to regulate residential land development in the unincorporated area of the county and adopt a residential building code would incur expenses associated with issuing permits and enforcing code compliance; however, the counties would be allowed to collect a fee to offset the costs of administering the permit program. Other costs would be to employ or contract with a certified inspector or a certified engineer to conduct inspections. If a county were required to provide a grant or a loan to an eligible owner-occupant who was in violation of the codes, the county would incur those costs until repayment by the owner-occupant is complete. If repayment is not forthcoming, the county would experience a revenue loss.

The negative fiscal impact would vary by county that regulates residential land development and that adopts a residential building code and would be significant only if the county makes loans or grants that are not repaid; otherwise, it is anticipated that the fiscal impact would be insignificant.

Source Agencies:

LBB Staff: JK, EB, DLBa

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HOUSE COMMITTEE REPORT

1st Printing

By: Lucio, Madla
(Chavez)

S.B. No. 535

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain counties to regulate land development; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 232, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES

Sec. 232.151. APPLICABILITY. This subchapter applies only to a county that includes territory located within 50 miles of an international border.

Sec. 232.152. REGULATORY AUTHORITY. (a) The commissioners court of the county by order may regulate residential land development in the unincorporated area of the county to prevent the proliferation of colonias by:

(1) adopting regulations relating to:

(A) maximum densities, including the size of lots;

(B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract; and

(C) the location of buildings and other structures on a lot or tract; and

(2) adopting building codes to promote safe and uniform building, plumbing, and electrical standards.

1 (b) If a tract of land is appraised as agricultural or
2 open-space land by the appraisal district, the commissioners court
3 may not regulate land development on that tract under the authority
4 granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

5 (c) The authority granted under this section does not
6 authorize the commissioners court to adopt an order regulating
7 commercial property that is uninhabitable.

8 Sec. 232.153. BUILDING PERMITS. (a) The county shall
9 issue a building permit if the person submitting the application
10 for the permit:

11 (1) files information relating to the location of the
12 residence;

13 (2) files the building plans for the residence; and

14 (3) complies with the applicable regulations relating
15 to the issuance of the permit.

16 (b) The county may charge a reasonable building permit fee.

17 (c) The county shall deposit a fee collected under this
18 section in an account in the general fund of the county dedicated to
19 the building permit program. The funds in the account may be used
20 only for the purpose of administering the building permit program.

21 Sec. 232.154. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
22 ORDER. If an order adopted under this subchapter conflicts with an
23 ordinance of a municipality, the municipal ordinance prevails
24 within the municipality's jurisdiction to the extent of the
25 conflict.

26 Sec. 232.155. EXISTING COUNTY AUTHORITY UNAFFECTED. The
27 authority granted by this subchapter does not affect the authority

1 of the commissioners court to adopt an order or ordinance under
2 other law.

3 Sec. 232.156. INJUNCTION. The county, in a suit brought by
4 the county attorney or other prosecuting attorney representing the
5 county in the district court, is entitled to appropriate injunctive
6 relief to prevent the violation or threatened violation of an order
7 adopted under this subchapter from continuing or occurring.

8 Sec. 232.157. PENALTY; EXCEPTION. (a) A person commits an
9 offense if the person violates a restriction or prohibition imposed
10 by an order adopted under this subchapter. An offense under this
11 section is a Class C misdemeanor.

12 (b) If the Texas Department of Housing and Community Affairs
13 classifies a household as a low-income household, a penalty may not
14 be assessed under this section against the owner-occupant of the
15 residential dwelling for a building standards or building code
16 violation relating to the dwelling unless the county makes
17 available to the owner-occupant housing rehabilitation assistance
18 in an amount sufficient to cure the violation. The assistance
19 provided must be a grant or loan and must be on payment terms that do
20 not cause the housing expenses of the owner-occupant to exceed 30
21 percent of the owner-occupant's net income.

22 SECTION 2. The heading to Chapter 232, Local Government
23 Code, is amended to read as follows:

24 CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS AND PROPERTY
25 DEVELOPMENT

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

S.B. No. 535

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2003.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

April 30, 2003
(date)

Sir:

We, your COMMITTEE ON BORDER AND INTERNATIONAL AFFAIRS

to whom was referred S.B. 535 have had the same under consideration and beg to report back with the recommendation that it

- (☒) do pass, without amendment.
 () do pass, with amendment(s).
 () do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
 () yes (☒) no A fiscal note was requested.
 () yes (☒) no A criminal justice policy impact statement was requested.
 () yes (☒) no An equalized educational funding impact statement was requested.
 () yes (☒) no An actuarial analysis was requested.
 () yes (☒) no A water development policy impact statement was requested.
 () yes (☒) no A tax equity note was requested.
 () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Chavez

Joint Sponsors: / / /

Co-Sponsors:

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Chavez, Chair	X			
Griggs, Vice-chair	X			
Canales	X			
Castro	X			
Merritt				X
Rangel				
Riddle				X

Total 4 aye
0 nay
0 present, not voting
2 absent

Norma Rangel
CHAIR

BILL ANALYSIS

S.B. 535
By: Lucio
Border and International Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas-Mexico border region has been plagued by a rash of unincorporated subdivisions that lack basic services, such as water, wastewater systems, electricity, and paved roads. These areas are commonly known as "colonias." S.B. 535 would authorize border counties to act in certain ways to prevent the proliferation of colonias.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. S.B. 535 amends the Local Government Code to authorize the commissioners court of the county by order to regulate, by certain measures, residential land development in the unincorporated area of the county to prevent the proliferation of colonias. The bill prohibits the commissioners court from regulating land development on a tract of land appraised as agricultural or open-space. The bill provides that authority granted under this section does not authorize the commissioners court to adopt an order regulating commercial property that is uninhabitable. The bill provides that this chapter only applies to a county that includes territory within 50 miles of an international border.

S.B. 535 requires the county to issue a building permit to an applicant who provides certain information and complies with applicable regulations. The bill authorizes the county to charge a reasonable building permit fee and requires the county to deposit the fee collected under this section in an account in the general fund of the county dedicated to the building permit program. The bill authorizes the funds to be used only for administering the building permit program.

S.B. 535 provides that in a conflict between an order under this subchapter and a municipal ordinance, the municipal ordinance prevails within the municipality's jurisdiction. S.B. 535 provides that authority granted under this subchapter does not affect the commissioners court's authority under other law. The bill provides that in a suit in district court the county is entitled to appropriate injunctive relief to prevent the violation or threatened violation of an order adopted under this subchapter from continuing or occurring.

S.B. 535 defines an offense under this subchapter and provides that an offense is a Class C misdemeanor. The bill prohibits assessment of a building standards or code violation penalty against an owner-occupant classified as low-income by the Texas Department of Housing and Community Affairs, unless the county provides assistance sufficient to cure the violation. The bill also requires assistance to be a grant or loan on payment terms that do not cause housing expenses to exceed 30 percent of the owner-occupant's net income.

SECTION 2. S.B. 535 amends the heading to Chapter 232, Local Government Code.

SECTION 3. Effective date.

EFFECTIVE DATE

On passage, or if this Act does not receive the necessary vote, this Act takes effect September 1, 2003.

SUMMARY OF COMMITTEE ACTION

SB 535

April 15, 2003 7:45AM

Considered in public hearing
Testimony taken in committee (See attached witness list.)
Left pending in committee

April 30, 2003 8:00AM

Considered in public hearing
Reported favorably without amendment(s)

2

WITNESS LIST

SB 535
HOUSE COMMITTEE REPORT
Border and International Affairs Committee

April 15, 2003 - 8:00AM

For: Lee, Donald (Tx. Conference of Urban Counties)
Against: Atkins, James P (Valley One RE Financing)
Gaines, Jimmy (Texas Land Owners Council, Inc.)
McClelland, Jack (Texas Land Developers Association)
Registering, but not testifying:
For: Allison, Jim (County Judges and Commissioners
Association of Texas)
Kastrin, Deborah (County of El Paso)

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 6, 2003

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations and Trade

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB535 by Lucio (Relating to authorizing certain counties to regulate land development; providing a penalty.), **Committee Report 1st House, Substituted**

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The bill would amend Chapter 232, Local Government Code, to authorize counties located within 50 miles of an international border to regulate land development in the unincorporated area of the county and would provide a penalty for violations of the regulations. The commissioners court in the authorized counties would be allowed to adopt regulations relating to lots, buildings, structures, and location, as well as adopt building codes except for land appraised as agricultural or that is commercial.

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The fiscal impact would vary by county that regulates residential land development and that adopts a residential building code and would result in a significant loss only if the county makes loans or grants that are not repaid; otherwise, it is anticipated that the fiscal impact of the provisions of the bill would be insignificant.

Source Agencies:

LBB Staff: JK, EB, DLBa

4

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 3, 2003

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations and Trade

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB535 by Lucio (Relating to authorizing certain counties to regulate land development; providing a penalty.), **As Introduced**

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5

Source Agencies:

LBB Staff: JK, EB, DLBa

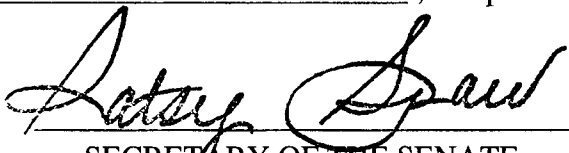
6

A BILL TO BE ENTITLED

AN ACT:

relating to authorizing certain counties to regulate land development; providing a penalty.

2-18-03 Filed with the Secretary of the Senate
FEB 24 2003 Read and referred to Committee on INTERNATIONAL RELATIONS & TRADE
Reported favorably _____
MAR 10 2003 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed
Laid before the Senate
MAR 20 2003 Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays
MAR 20 2003 Read second time, _____, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays
MAR 20 2003 Senate and Constitutional 3 Day Rule suspended by a vote of 26 yeas, 3 nays.
MAR 20 2003 Read third time, _____, and passed by: { A viva voce vote
29 yeas, 0 nays


SECRETARY OF THE SENATE

OTHER ACTION:

March 20, 2003 Engrossed
March 20, 2003 Sent to House

Engrossing Clerk Mandi A. Olfendick

MAR 20 2003 Received from the Senate
MAR 27 2003 Read first time and referred to Committee on Border and International Affairs
APR 30 2003 Reported _____ favorably (~~amended~~) (as substituted)
MAY 02 2003 Sent to Committee on (Calendars) (~~Local & Consent Calendars~~)
MAY 05 2003 Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)
Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.
Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)
Returned to Senate.
Returned from House without amendment.
Returned from House with _____ amendments.
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays